

THE COUNTY BULLETIN  
And Uniform Compliance Guidelines  
ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 330

October 2000

**REMINDER OF ORDER OF BUSINESS**

**October**

- 1 Last date for County Board of Tax Adjustment [except Marion County and in a county containing a second class city (November 1)] to complete its duties. (IC 6-1.1-17-9(a))
  - 9 Columbus Day - Legal Holiday (IC 1-1-9-1)
  - 15 Last day to make pension report and payment for third quarter by counties participating in Public Employee's Retirement Fund.
  - 20 Last day to report and make payment of State Income Tax withheld in September to Indiana Department of Revenue.
  - 31 Last day to file quarterly unemployment compensation report with the Indiana Employment Security Division.
- Last day to report and make payment of balance of Federal Income Tax withheld in the third quarter to Internal Revenue Service.
- Last day Annual Tax Sale can be held. [IC 6-1.1-24-2(a)(8)]

**November**

- 1 Issue tax sale certificates to County for properties offered in tax sale for two consecutive years and unsold at the 2000 Tax Sale. (IC 6-1.1-24-6)

Last date for County Board of Tax Adjustment in Marion County and in a county containing a second class city to complete its duties. (IC 6-1.1-17-9(a))

Last day for county auditor to certify to the division of state court administration the amount, if any, the county will be providing to the judge's salary during the ensuing calendar year. (IC 33-13-12-7.1(b))

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**REMINDER OF ORDER OF BUSINESS**  
**(Continued)**

**November**

- 7 Election Day - Legal Holiday (IC 1-1-9-1)
- 10 Last day for paying second installment of taxes without penalty. Start preparing for settlement of second installment tax collections. (IC 6-1.1-37-10)
- Veterans' Day - Legal Holiday. (IC 1-1-9-1)
- 15, 16, & 17 County Auditor's Fall Conference - Indianapolis, Indiana
- 20 Last day to report and make payment of State Income Tax withheld in October to Indiana Department of Revenue.
- 23 Thanksgiving Day - Legal Holiday. (IC 1-1-9-1)

**December**

- 1 On or before this date, certify names and addresses of persons who have money due to them for salaries, wages or other reasons to County Treasurer, for determining if such persons owe delinquent taxes. (IC 6-1.1-22-14)
- At regular meeting of Board of County Commissioners consideration may be given to appointments of certain personnel and to bids and awards for highway supplies, materials and equipment for 2001.
- 20 Last day to report and make payment of State Income Tax withheld in November to Indiana Department of Revenue.
- 25 MERRY CHRISTMAS!! Legal Holiday. (IC 1-1-9-1)

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**REMINDER OF ORDER OF BUSINESS**  
**(Continued)**

**December**

- 31      Review year-end duties.

Post and close all records completely and promptly.

The Auditor should balance with the Treasurer and verify the amount of cash in the Treasurer's office, if field examiners or a successor Treasurer are not available to verify the cash count.

Cash Change Funds issued to any county officer whose term expires must be returned to the County General Fund.

**COUNTY DRUG FREE COMMUNITY FUND**

In those counties in which there are city and/or town courts, the County Auditor should receive a monthly distribution from such courts of twenty percent (20%) of their collections of court costs. These court costs should be placed in the County General Fund. Also, the county auditor will be receiving monthly seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees and seventy-five percent (75%) of the alcohol and drug countermeasures fees. These fees should be placed in the county drug free community fund.  
(IC 33-19-7-4)

### **STATE SOLID WASTE MANAGEMENT FEES**

A State Solid Waste Management Fee is to be charged by all counties owning their own final disposal facility. The fee is as follows:

- (1) For solid waste generated in Indiana and delivered to a final disposal facility in a motor vehicle having a registered gross vehicle weight greater than nine thousand (9,000) pounds, fifty cents (\$.50) a ton.
- (2) For solid waste generated outside Indiana and delivered to a final disposal facility in a motor vehicle having a registered gross vehicle weight greater than nine thousand (9,000) pounds:
  - (A) fifty cents (\$.50) a ton; and
  - (B) if the solid waste management board has adopted rules, an additional amount imposed under the rules.
- (3) For solid waste generated in Indiana or outside Indiana and delivered to a final disposal facility in:
  - (A) a motor vehicle having a registered gross vehicle weight of not more than nine thousand (9,000) pounds; or
  - (B) a passenger motor vehicle (as defined in IC 9-13-2-123); fifty cents (\$.50) for each load delivered by the motor vehicle.

The solid waste management board shall adopt rules to establish and impose a fee on the disposal or incineration of solid waste that is:

- (1) generated outside Indiana; and
- (2) disposed of or incinerated in a final disposal facility of Indiana.

The fee shall be set at an amount necessary to offset the costs incurred by the state or a county, municipality, or township that can be attributed to the importation of the solid waste into Indiana and the presence of the solid waste in Indiana.

Revenue from fees collected shall be deposited in the state solid waste management fund and in the hazardous substances response trust fund established by IC 13-25-4-1, except that any part of the revenue that the board finds is necessary to offset costs incurred by counties, municipalities, and townships shall be distributed to solid waste management districts pro rata on the basis of the district's population. (IC 13-20-22-1)

The owner or operator of a final disposal facility is responsible for collecting the fees from persons delivering solid waste to that facility.

**STATE SOLID WASTE MANAGEMENT FEES - (Continued)**

Each owner or operator may:

- (1) deduct from the fees an amount equal to one percent (1%) of the fees collected; and
- (2) retain this amount as compensation for collecting and remitting the fees; if the fees collected and the reports required are timely remitted and filed.

If:

- (1) the fees collected are remitted; or
- (2) the required report is filed; after the due date, the owner or operator shall remit all fees collected to the department of state revenue.

The owner or operator shall remit the remainder of the fees that the owner or operator collects during a month to the department of state revenue not later than ten (10) days after the last day of the month in which the fees are collected.

The owner or operator of a final disposal facility shall file monthly reports with the department concerning the fees collected. The department shall adopt a form for these reports. An owner or operator shall use the form in reporting to the department. (IC 13-20-22-11)

**NOTICES OF COUNTY COUNCIL MEETINGS**

IC 36-2-3-7 states that a special meeting of the county council may be called by either the county auditor, the president of the county council, or a majority of the members of the county council. This section also requires the county auditor, the president of the county council, or the members who called the meeting to give written notice of the meeting to each member of the county council at least 48 hours before the meeting and to publish notice of the meeting at least 1 day before the meeting in accordance with the provisions of IC 5-3-1-4. This subsection does not apply to a meeting called to deal with an emergency under IC 5-14-1.5-5.

Notices of additional appropriations are required to be published one time in two newspapers at least ten days before the hearing by the county council. (IC 6-1.1-18-5 and IC 5-3-1-2)

Notice of the annual budget is required to be published two times, one week apart, in two newspapers with the first publication being at least ten days before the date fixed for the public hearing. (IC 6-1.1-17-3)

### **REIMBURSEMENT FOR SALARY OF COUNTY HIGHWAY ENGINEER**

IC 8-17-5-9 states that the county auditor of counties that employ a full-time county highway engineer shall annually certify that employment to the auditor of state.

IC 8-17-5-10 provides that upon receipt of the annual certification from the county auditor, the auditor of state shall distribute to each county a grant-in-aid subsidy of \$20,000 that is to be applied toward the engineer's annual salary. If the county highway engineer is employed by 2 counties acting jointly, the amount distributed to each county is \$10,000.

It should also be noted to qualify for the grant-in-aid subsidy the county highway engineer must devote full time to the county highway department. A county in which the county engineer devotes part of his time to the county highway department and part of his time to the drainage funds or some other department would not qualify for the grant-in-aid subsidy for full-time county highway engineers.

### **FIELD EXAMINER IDENTIFICATION**

We have recently received information regarding individuals purporting to be field examiners requesting records from local units of government. Good management controls would dictate that whenever you are approached by a person requesting records who holds themselves out to be a field examiner of the State Board of Accounts, and you are not certain of their identity, you should request to see their picture identification card. All Field Examiners of the State Board of Accounts have been issued a picture id for this purpose. If you are uncertain whether an individual is a Field Examiner of the State Board of Accounts, please call the central office at 317-232-2513 or the area Field Supervisor.

### **PUBLIC NATURE OF RECORDS AND MEETINGS**

We are often asked about public access to records and meetings.

IC 5-14-1.5-3 states in part (a) "Except as provided in section 6.1 of this chapter, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them."

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**PUBLIC NATURE OF RECORDS AND MEETINGS - (Continued)**

IC 5-14-3-3 states in part, (a) “Any person may inspect and copy of the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:

- (1) Identify with reasonable particularity the record being requested; and
- (2) Be, at the discretion of the agency, in writing on or in a form provided by the agency.

No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by other applicable statute.”

Anne Mullin O’Connor, Public Access Counselor, may be contacted at 1-800-228-6013 or 317-233-9435 concerning access to public records or public meetings.

**DEPOSITORY LIST**

For the latest list of approved depositories, look at the Treasurer of State’s website. This can be accessed at <http://www.ai.org/deposit/html/appdeps.html>.

**SAFEKEEPING RECEIPTS FOR INVESTMENTS**

IC 5-13-9-2 states in (d) “The investing officers of the political subdivisions are the legal custodians of securities under this chapter. They shall accept safekeeping receipts or other reporting for securities from:

- (1) a duly designated depository as prescribed in this article; or
- (2) a financial institution located either in or out of Indiana having custody of securities with a combined capital and surplus of at least ten million dollars (\$10,000,000) according to the last statement of condition filed by the financial institution with its governmental supervisory body.” And (e) “The state board of accounts may rely on safekeeping receipts or other reporting from any depository or financial institution.”

**SHERIFF’S COMMISSARY FUND**

The sheriff’s commissary fund, under IC 36-8-10-21, had new language added stating what the money may be used for. Specifically under IC 36-8-10-21(d)(8), the law allows commissary funds to be used for any other purpose that benefits the sheriff’s department that is mutually agreed upon by the county fiscal body and the county sheriff. Our audit position is that this mutually agreed upon disbursement can be done by a vote of the board and included in the minutes of the fiscal body. A formal resolution or ordinance is not required.

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### **ADDITIONAL APPROPRIATIONS**

We have received numerous inquiries and conflicting opinions regarding additional appropriations, specifically how many votes does it take to approve an additional appropriation. Therefore, we contacted the State Attorney General requesting an interpretation. We have received the following conclusion.

IC 36-2-5-12 states that, "If, after the adjournment of its annual meeting under IC 36-2-3-7(b)(2), the county fiscal body finds that an emergency requiring additional appropriations exists, it may make additional appropriations at a special meeting. Estimates of the necessary amount of additional appropriations must be prepared and presented in an ordinance as prescribed by this chapter."

Chapter 4 of Indiana Code 36-2 sets out the general legislative procedures of a county council and provides that an ordinance may be adopted by a simple majority. (IC 36-2-4-5) Chapter 5, on the other hand, deals specifically with budget matters. Contained in Chapter 5 is the requirement that when making appropriations, "at least a three-fourths (3/4) vote of the fiscal body is required for an item not contained in an estimate or for a greater amount than that named in an item of an estimate." (IC 36-2-5-11(b))

For an appropriation to be made under Indiana Code 36-2-5-12, the fiscal body must, after the adjournment of its regular meeting, find that an emergency exists. An emergency is an unforeseen occurrence. State, ex rel. Kautz v. Board of Commissioners of Howard County, 204 Ind. 484, 491, 184 N.E. 780, 783 (1933). Because appropriations under Indiana Code 36-2-5-12 are not contemplated at the annual meeting, they are for items "not contained in an estimate or for a greater amount than that named in an item of an estimate."

Conclusion: An appropriation made under Indiana Code 36-2-5-12 is controlled by Indiana Code 36-2-5-11(b) and must be approved by at least a three-fourths vote of the fiscal body.

### **QUESTIONS AND ANSWERS FROM THE CLERKS CONFERENCE**

Question #1: Are Court Reporters considered judicial or county employees?

Answer #1: Court reporters are considered judicial employees.

Question #2: How are bad checks to be reconciled in clerk's receipts bookkeeping?



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**QUESTIONS AND ANSWERS FROM THE CLERKS CONFERENCE - (Continued)**

Answer #2: Bad checks will be cash necessary to balance until the check is made good. The receipt is posted to the cash book but obviously, no deposit is made. Once the bad check is made good and the deposit made, the bank will now reconcile with the cash book.

Question #3: Are we required to maintain fee books or are there some situations that would exempt a county?

Answer #3: Fee books are required to be kept in all situations.

Question #4: Do we still need to record in Lis Pendens Book? Do we still need to record in Judgment Book?

Answer #4: Yes, you must record in both books, Lis Pendens Record by IC 34-34-1-1 and Judgment Book by IC 33-17-2-3 and IC 33-17-2-5.

Question #5: Are Clerk's required to be a passport agency intake site? If not, what procedures do we follow to discontinue this service?

Answer #5: No, the clerk is not required to be a passport agency intake site. You should contact the federal agency that deals with issuing passports to see if any procedures are required to discontinue this practice.

Question #6: ISETS suggests to disable "local users" ID/Password when a clerk/prosecutor employee no longer works for clerk/prosecutor office. Also, "remote users" should be disabled after 30 days? Who is responsible to disable outgoing clerk's ISETS ID/Password, January 2, 2001? Other computer system(s) that has outgoing clerk password - who/when to delete?

Answer #6: The system administrator will disable the outgoing clerk. The system administrator is set up by the state and the computer company.

Questions #7: Do we still issue junk dealers license?

Answer #7: There is no statute that calls for the clerk to issue a license to junk dealers.

Question #8: When the state collects child support, who collects the support service fee?

Answer #8: IC 33-19-6-5 says the clerk shall collect a fee in addition to the support.

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**QUESTIONS AND ANSWERS FROM THE CLERKS CONFERENCE - (Continued)**

Question #9: What is the procedure format to change from current ISETS checks to self enclosed mailers?

Answer #9: The self mailer is a prescribed form that may be purchased from your public printer. If you need your self mailer to be modified a little, then you should submit the form to this agency for approval.

Question #10: Does Public Law 26, Indiana Code 1-1-9-1, now mean that if certified mail is dated on a holiday that we are to show the document filed on that date?

Answer #10: This law change would not effect the date you file an item. It only states that if you work the holiday and you actually file something on that date, it is valid. So if you normally show certified mail as filed on the date certified, yes you would file on the holiday. If you normally show certified mail as filed on the date you receive it, you will still show filed on the date received.

Question #11: Are other counties currently microfilming the will, inventory and estate filings? Previously, this was done but now we are copying the will into a will record book. Nothing is done with the inventory or final account. Should we be doing anything in addition to this?

Answer #11: Per John Newman, the will record should be microfilmed along with the estate files. The inventory records should be part of the estate files. A separate inventory record is no longer required since about 1995.

Question #12: The change of venue fee has been paid to the county clerk who is to send the case out. The check is therefore receipted into that county and a check cut from the trust account to the venue county and sent along with he papers pertaining to the case. Occasionally the attorney who files the case will issue the check to the county clerk who is to receive the venued case. This seems so easier. Has the statute changed?

Answer #12: No, the law has not changed. The check should be written to the county which the case is filed and then transferred to the venued county. This will provide a sufficient paper trail and proper accountability.

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**QUESTIONS AND ANSWERS FROM THE COUNTY TREASURERS CONFERENCE**

Question #1: To garnish wages on a personal property judgment, does this garnishment have to be a court ordered garnishment? If not, how do we exactly proceed with this garnishment?

Answer #1: No, you do not have to have a court order for the public employer to garnish an employee's wages for delinquent taxes under IC 6-1.1-22-15. You should try and educate the disbursing officer on this code or you could try to get the court to order payment.

Question #2: Our schools never send me a list of their employees - is it my responsibility to call them and ask for the list? What is my responsibility if I receive no list?

Answer #2: No, you are not responsible to call them. Your responsibility is to search for delinquencies when receiving the list. You may want to send a letter of a memo to the disbursing officers reminding them to send the list, but if they do not there is not a lot that you can do. If you will let us know, we will put this info in an audit file for that unit of government and at the next audit question the officer why this is not being done.

Question #3: Do we still need to get State Board of Accounts for computer printouts which look the same as forms? (such as cash book pages)?

Answer #3: If the printout is an exact mirror image of the prescribed form then you do not need our approval, but if it varies in any way then you must have our approval.

Question #4: What is the Indiana Code for investing in AAA-rated money market fund?

Answer #4: IC 5-13-9-2.5

Question #5: Is there a general guideline that can be given to those employers who do not know how to go about garnishing wages? 30 day notices - Is there a specific deadline date to have them in the mail?

Answer #5: Garnishment statute is IC 24-4.5-5-105. There is no deadline that we are aware of for the 30 day notice.

Question #6: When a judgment is filed in another county, can the treasurer in the county where the judgment is to be satisfied claim costs of the collection?

Answer #6: IC 6-1.1-23-11 does not allow the addition of costs by the receiving county.

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**QUESTIONS AND ANSWERS FROM THE COUNTY TREASURERS CONFERENCE -**  
**(Continued)**

Question #7: Some taxpayers want a treasurer's hand written and signed note guaranteeing them something. Example: "Saying they are off tax sale - they have paid receipt." May we say no? Any kind of notes we must write?

Answer #7: Yes, you can say no. There is no statutory requirement that the treasurer provide any type of written guarantee. The tax receipt is the evidence that the taxes were paid. We know of no notes of any kind that the treasurer is required to write.

Question #8: Where does the state stand with the re-appraisal? Are they working on re-appraisal, has it started, or when will it affect our taxes?

Answer #8: The reassessment issue is an ongoing item of discussion and to our knowledge no specific decisions have been made. This will probably dominate the 2001 legislative session.

Question #9: Our computer company tells us the tax duplicate record is in the computer, which it is now - but how permanent will this be? Should we have a print-out to maintain as permanent?

Answer #9: You must have a printout of the tax duplicate or have it saved on a computer tape, disk, or CD.

Question #10: If you recertify a Demand Notice, do you calculate the interest due, and add it to the judgment amount?

Answer #10: Statute doesn't specifically address this issue. Interest is to be calculated from the date of judgment to the date paid. You should consult with your county attorney and judge to determine whether the interest should be added to the judgment.

Question #11: Regarding certificates of error and added assessments, as treasurers, what is our responsibility, since a signature is no longer required? Do we need to check C of E's and AA's after the auditor enters them? Do we need to check the auditors math? Are we required to make sure they (Auditor) have entered the C of E's on the original parcel number?

Answer #11: It is the county auditor's responsibility to prepare and post the certificates of error and the added assessments to the tax duplicate. The treasurer has no specific responsibilities.

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**QUESTIONS AND ANSWERS FROM THE COUNTY TREASURERS CONFERENCE -**  
**(Continued)**

Question #12: Regarding judgments, does it have to be hand typed or can it be computer generated for our big books after certified to clerks office?

Answer #12: All official records can be computerized. Anything you do by hand can be done by the computer. You must get our approval for your computerized reports and printouts.

Question #13: We gave a customer a liquor clearance for his bar and his check came back NSF. He never came in to pay for the NSF check. Can we have his license revoked?

Answer #13: This is a timing issue. You should contact the state Alcoholic Beverage Commission as soon as NSF check is returned. They may be able to stop the issuance of the license. You should contact ABC to see if the license can be revoked.

Question #14: With so many mobile homes being moved out of the county with no moving permit, is there anything that can be done for the park manager or owner to be forced to help out more?

Answer #14: Moving a mobile home without a permit is a Class C Infraction under IC 6-1.1-7-12. Other than pursuing the owner or park manager through the county prosecutor for this violation, the statute doesn't address any other remedies.

Question #15: If a large mobile home park owns ten mobiles (which they rent out) which are on their land, do they each get a separate statement or are all on one statement as an improvement to the land and not considered personal property?

Answer #15: Mobile homes on land owned by the owner is assessed as real property. Mobile homes on leased or rented land is assessed as personal property.

Question #16: Must we fill out mobile home permits if taxpayer can not give complete information such as VIN number, addresses, etc.?

Answer #16: This is a office policy decision you must make. State statute does not address this.

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**QUESTIONS AND ANSWERS FROM THE COUNTY TREASURERS CONFERENCE -**  
**(Continued)**

Question #17: Property sold at tax sale 1999 to an individual. Property was in mortgage companies name. Property was sold due to ditch tax not being paid. Three payments were made on the real estate tax only. May 1999 - payment by mortgage company, November 1999 - payment made by individual at tax sale, and November 1999 - payment made by mortgage company. When redeemed - the money paid by individual at tax sale - What fund would this money come from? Is there excess tax once redeemed? If there is excess tax - who would receive this refund?

Answer #17: The money would come from either the tax sale redemption fund or the tax sale surplus fund. Once redeemed there may be excess tax which will be refunded to the property owner.